

BEFORE THE LAND USE BOARD OF APPEALS  
OF THE STATE OF OREGON

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3 TERRY GRIFFITHS, )  
4                   Petitioner, )           LUBA No. 79-031  
5                   vs.            )             
6 City of Portland, )           ORDER OF DISMISSAL  
7                   Respondent. )

8           This matter is before the Board upon the motion of respondent  
9 City of Portland. Respondent seeks to dismiss the case because the  
10 challenged land use decision was not "final" as defined in section  
11 3(C), (D) and (E) of the rules of this Board.

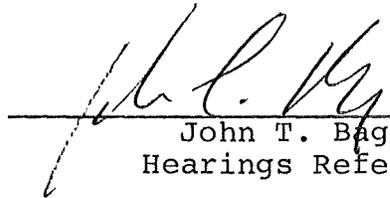
12           At the request of this Hearings Referee, the City of Portland  
13 provided a copy of a portion of Title 34 of the Code of the City  
14 of Portland. That title provides at Chapter 34.110 for an appeal  
15 of a hearings officer's decision within 30 days of the date of  
16 his decision. Presumably, if his decision is not appealed, it  
17 is as effective as if made by the city's governing body.

18           However, the statute controlling Board jurisdiction and  
19 the rules of this Board provide that the decision appealed  
20 from must be that of the local governing body. Oregon Laws  
21 1979, Ch 772, § 3; Land Use Board of Appeals, Rules of Pro-  
22 cedure 3(D) (E). The statute and the Board rules essentially  
23 provide that a person seeking to overturn a land use decision  
24 exhaust all of the remedies available at the local level before  
25 asking the Land Use Board of Appeals for review. By law, land  
26 use decisions are appealable to the city governing body if

1 made by a hearings officer. ORS 227.180 as amended by Oregon  
2 Laws 1979, Ch 772, § 12. Oregon law places emphasis on local  
3 decision making, and it would be inconsistent with this policy  
4 to allow intervention by a state agency before all local  
5 appeal procedures have been tried.

6 The motion is well taken and the matter of Terry Griffiths  
7 vs. City of Portland, LUBA No. 79-031 is hereby dismissed.

8 Dated this 9<sup>th</sup> day of January, 1980.

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12 John T. Bagg  
13 Hearings Referee  
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